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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Tyler Packer and Shevonna Packer, a  
married couple,

Plaintiffs,

v.

Matt Brown Trucking Inc., a business  
entity; Christine Denise Rainwater, an  
individual; John Does I-X, Jane Does I-X,  
Other Entities I-X, Black and White  
Corporations I-X, ABC Partnerships I-X,

Defendants.

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Christine Denise Rainwater, individually,  
Counter-Claimant,

v.

Tyler Packer and Shevonna Packer,  
husband and wife,

Counter-Defendants.

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Christine Denise Rainwater, individually,  
Third-party Plaintiff,

v.

United States of America on behalf of Salt  
River Pima-Maricopa Indian Community;  
John Does I-X, Jane Does I-X, Other  
Entities I-X; Black and White Corporations  
I-X; ABC Partnerships I-X,

Third-party Defendants.

No. CV-

**NOTICE OF REMOVAL**

(formerly Maricopa County Superior  
Court Case No. CV2023-004775)

1           The United States of America, on behalf of the Salt River Pima-Maricopa Indian  
2 Community (SRPMIC), hereby gives notice of the removal of the civil actions captioned  
3 *Christine Denise Rainwater v. Tyler Packer and Shevonna Packer* [Counterclaim] and  
4 *Christine Denise Rainwater v. United States of America on behalf of the Salt River Pima-*  
5 *Maricopa Indian Community* [Third-Party Complaint] from Maricopa County Superior  
6 Court to the United States District Court for the District of Arizona, pursuant to the  
7 provisions of 28 U.S.C. § 1446. The United States removes these matters for the following  
8 reasons:

9           1.       On March 28, 2023, Tyler Packer and Shevonna Packer, a married couple,  
10 filed a complaint in Maricopa County Superior Court against Defendants Matt Brown  
11 Trucking, Inc. (“MBT”) and Christine Denise Rainwater (MBT driver). The complaint  
12 alleges that on April 8, 2022, Ms. Rainwater was negligent in her operation of the MBT  
13 vehicle and caused a fatal motor vehicle collision with the ambulance in which Mr. Packer  
14 was a passenger. Brandon Bessee, the driver of the ambulance, died as a result of the  
15 collision, and Packer suffered injuries and other damages. The action was assigned cause  
16 number CV2023-004775.<sup>1</sup> *See* Att. 9, Complaint (Tort Motor Vehicle).

17           2.       On May 2, 2023, Defendants MBT and Rainwater filed their Answer to the  
18 Complaint, and Rainwater asserted a counterclaim against Packer. *See* Att. 5, Answer.

19           3.       On May 15, 2023, Rainwater amended her Counterclaim against Packer and  
20 simultaneously initiated a Third-Party Complaint against the United States of America on  
21 behalf of the SRPMIC. *See* Att. 3, Operative Complaint.

22           4.       In the Counterclaim, Rainwater alleges Packer was in the course and scope  
23 of his employment with the Salt River Fire Department, a tribal entity and subsidiary of  
24 SRPMIC. (Att. 3, p. 3). She alleges Packer was the co-driver of the ambulance and  
25 breached his duty of care and was a direct and proximate cause of the crash and her  
26 injuries. (*Id.* at p. 4).

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27  
28           <sup>1</sup> The United States of America is not a party to this initial action and is not seeking  
removal of this action.

1           5. In the Third-Party Complaint, Rainwater alleges negligence and vicarious  
2 liability of the United States on behalf of SRPMIC for the wrongful acts of its employees  
3 Tyler Packer and Brenden Bessee (decedent). Both were acting in the course and scope of  
4 their employment with the SRPMIC at the time of the events in question. (Att. 3, pp. 5-  
5 8).

6           6. The First Amended Counterclaim and Third-Party Complaint may be  
7 removed to this Court pursuant to 28 U.S.C. § 1442, 28 U.S.C. § 2679(d)(2) and 42 U.S.C.  
8 § 233(c) because they are actions against the United States of America on behalf of  
9 SRPMIC as well as employee Tyler Packer (an employee of the Public Health Service),  
10 who was acting within the course and scope of his employment with SRPMIC at the time  
11 of the incident in question.

12           7. The Federal Tort Claims Act, 28 U.S.C. §§ 1346(b); 2671-2680 (“FTCA”) provides that a suit against the United States shall be the exclusive remedy for persons with  
13 claims for damages resulting from the negligent or wrongful acts or omissions of federal  
14 employees taken within the scope of their office or employment. 28 U.S.C. § 2679(b)(1).  
15 Rainwater’s causes of action in her First Amended Counterclaim and Third-Party  
16 Complaint fall within this provision.

17           8. Congress provided in 28 U.S.C. § 2679(d)(2) that upon certification by the  
18 Attorney General that an employee acted within the scope of office or employment at the  
19 time of the incident out of which a plaintiff’s claim arose, any civil action or proceeding  
20 commenced upon that claim in a State court shall be removed without bond at any time  
21 before trial by the Attorney General to the district court of the United States for the district  
22 and division embracing the place in which the action or proceeding is pending. “Once  
23 certification occurs, the action ‘shall be deemed an action against the United States [under  
24 the FTCA] and the United States shall be substituted as the party defendant.’” *United States*  
25 *v. Smith*, 499 U.S. 160, 164 n.5 (1991) (brackets in original) (quoting 28  
26 U.S.C. § 2679(d)(2)). The civil action or proceeding shall then be deemed to be an action  
27 against the United States under the FTCA, and the United States shall be substituted as the  
28

1 party defendant. See also *Wilson v. Drake*, 87 F.3d 1073 (9th Cir. 1996); *Green v. Hall*, 8  
2 F.3d695, 698 (9th Cir. 1993). Congress also provided in § 2679(d)(2) that “[t]his  
3 certification of the Attorney General shall conclusively establish scope of office or  
4 employment for purposes of removal.”

5 9. The Attorney General has delegated authority to certify scope of office or  
6 employment under 28 U.S.C. § 2679 to the United States Attorneys and to the Directors of  
7 the Torts Branch of the Department of Justice Civil Division. See 28 C.F.R. § 15.4(a). The  
8 United States Attorney for the District of Arizona has redelegated this authority to the Chief  
9 of the Civil Division. A Certification by the Chief of the Civil Division of the United States  
10 Attorney’s Office for the District of Arizona that Defendant Packer was an employee of  
11 the United States, through its agency the Public Health Service, and was acting within the  
12 scope of his employment at the time of incidents out of which Plaintiff’s claims arise is  
13 attached hereto as **Exhibit A**.

14 10. Pursuant to 28 U.S.C. § 2679(d)(2) and 28 U.S.C. § 2408, no bond is required  
15 for removal of this action.

16 11. There has been no trial or other final disposition in the Maricopa County  
17 Superior Court action.

18 12. The United States Attorney’s Office, Department of Health and Human  
19 Services as well as the United States Attorney General’s Office have all been served.

20 13. Pursuant to LRCiv. 3.6(b), this Notice includes the following attachments:

21 (1) Supplemental Civil Coversheet

22 (2) State Court Docket (as of September 12, 2023)

23 (3) Operative Complaint (Christine Rainwater’s First Amended Counterclaim  
24 and Third-Party Complaint, May 15, 2023)

25 (4) Service Documents

26 (5) Answers (Matt Brown Trucking and Christine Rainwater’s Answer to Tyler  
27 Packer’s Initial Complaint, May 2, 2023)

28 (6) State Court Orders Terminating or Dismissing Parties (None)

1 (7) Notices of Appearance (None)

2 (8) Pending Motions, Responses and Replies (None)

3 (9) Remainder of State Court Record (Tyler Packer's Initial Complaint filed  
4 Mar. 28, 2023, Summonses, Certificates of Compulsory Arbitration)

5 (10) Verification of State Court Record

6 14. Pursuant to LRCiv 3.6(a), a copy of this Notice of Removal excluding  
7 attachments, will be filed with the Clerk of the Court, Maricopa County Superior Court,  
8 via the AZTurboCourt electronic filing system.

9 15. Copies of this Notice of Removal, including attachments, will be mailed to  
10 all parties of record via First Class U.S. Mail.

11 WHEREFORE, the United States gives notice of the removal of *Christine Denise*  
12 *Rainwater vs. Tyler Packer and Shevonna Packer* [Counterclaim]; and *Christine Denise*  
13 *Rainwater v. United States of America on behalf of the Salt River Pima-Maricopa Indian*  
14 *Community* [Third-Party Complaint], from Maricopa County Superior Court to the United  
15 States District Court for the District of Arizona.

16 RESPECTFULLY SUBMITTED September 12, 2023.

17  
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21 DINA ANAGNOPOULOS  
22 LISA HEMANN  
23 Assistant United States Attorneys  
24 *Attorneys for the United States*  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on September 12, 2023, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing. I further certify that a copy of the attached will be mailed via First Class U.S. Mail to the following individuals:

**Michael Napier**

**Juliana B. Tallone**

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s/ Lauren Routen

U.S. Attorney's Office